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REMARKS

The following remarks are responsive to the Office action mailed July 31, 2003.

Claims 69, 95, and 99 are cancelled, 103-106 are added, and each of the remaining claims is amended herein. Claims 70-94, 96-98, and 100-106 will be pending upon entry of this amendment.

The amendments to claims 70-94, 96-98, and 100-102 are being made solely to improve the technical format of the claims and not for reasons related to patentability.

Applicant notes that the Preliminary Amendment included improper claim numbering for claims 88 (misnumbered as a second claim 87) and 89 (misnumbered as claim 88) rather than claims 89-101 noted in paragraph two of the Office action. The correct claim numbering is reflected by the listing of claims in this Amendment.

I. Objections to the Drawings

Applicant has amended the drawings herein to comply with the changes suggested in the Office action.

Fig. 1 has been amended to add an arrow to the lead line from reference numeral 1 to denote the article generally. Reference numeral 18 has been moved to more accurately designate the outer surface of the bodyside liner. The outline of the waist elastic members indicated by reference numeral 8 and the corresponding lead lines have been changed to dashed lines to denote corresponding underlying structures. Item 15 has been deleted from Fig. 1 as this reference number is not referred to in the specification.

Fig. 2 has been amended to add an arrow to the lead line from reference numeral 1 to denote the article generally. Corresponding directional arrows have been added to indicate the

CD direction and MD direction of the article. The reference numeral indicating the longitudinal direction of the article has been changed from 61 to 62 to eliminate duplicate use of reference numerals in the specification.

Figs. 3-5 have been amended to add an arrow to the lead line from reference numeral 1 to denote the article generally. The lead line for reference number 48 has been changed to a dashed line to denote underlying structure and the reference numeral 2 has been removed from the drawings.

Figs. 6-8 have been revised to formalize the drawings. No substantive changes have been made to these Figures.

In view of the above, applicant submits that the drawings as now presented are in proper form for allowance.

II. Objection to the Specification

Applicant has amended the specification in accordance with the technical objections raised in the Office action. Specifically, the Abstract of the Disclosure has been amended to remove language that can be inferred as claim language. Also, the specification has been amended throughout so that all trademarks referred to in the application are indicated by capital letters or by the trademark registration symbol.

In response to the questions listed in paragraph seven of the Office action, applicant notes that reference numeral 15 has been removed from Fig. 1. Applicant has not amended the Summary of the Invention section to be commensurate with the claim language as suggested by the Examiner. Rather, applicant agrees to amend this portion of the specification upon receiving notice that the claims are in proper form for allowance. The typographical error on page 18, line 5 has been corrected as suggested by the Examiner.

With exception to the Summary of Invention section of the specification as stated above, applicant submits that the specification is in proper form for allowance.

III. Response to Claim Objections

All dependent claims (except those canceled herein) have been amended per the Examiner's objection so that the dependent claims now begin with "The" instead of "A."

IV. Response to 35 U.S.C. 112 Rejection

Claims 71, 72, 101, and 102 have been amended to remove the term "or equal to" from the claim.

Accordingly, these claims are submitted to be in proper form for allowance.

V. Claim 103

New claim 103 is directed to a disposable absorbent garment having an absorbent core shaped and positioned to provide enhanced stretchability of the chassis for improved appearance, fit, and leakage containment. The disposable absorbent article has a longitudinal axis, a lateral axis, and a lateral centerline generally defining longitudinal front and back halves of the article and comprises an absorbent core disposed between a liner and an outer cover. More specifically the disposable absorbent article comprises, *inter alia*:

> a liner adapted for contiguous relationship with a wearer's body;
>
> an outer cover in generally opposed relationship with the liner, at least one of said liner and said outer cover being stretchable in at least one direction, the article

having a surface area defined at least in part by at least one of said liner and said outer cover; and

an absorbent core disposed between the liner and the outer cover and having a surface area which is less than about 50% of the surface area of the article, the absorbent core lying on the lateral centerline and extending longitudinally farther from said centerline into the front half of the article than into the back half of the article.

New claim 103 is submitted to be unanticipated by and patentable over the references of record, and in particular U.S. Patent No. 5,330,457 (Cohen), WO 96/18367 (Clear et al.), and U.S. Patent No. 5,249,433 (Hasse et al.), in that whether considered alone or in combination the references fail to show or suggest a disposable absorbent article having an absorbent core with a surface area that is less than about 50% of the surface area of the article and that extends longitudinally farther from the centerline of the article into the front half than the back half of the article.

Cohen discloses a diaper 1 having a fluid permeable cover sheet 2 and an absorbent core 4 positioned between the cover sheet and a fluid impervious backing layer (not shown). However, Cohen is completely silent as to the position of the core relative to a lateral centerline of the diaper. If anything, it appears from the drawings that the core extends further toward the back of the diaper than toward the front of the diaper. Consequently, Cohen fails to show or otherwise even suggest that the absorbent core 4 may be otherwise positioned such that the core extends farther from the lateral centerline into a front half of the diaper than into a back half of the

diaper. For these reasons, new claim 103 is submitted to be unanticipated and patentable over Cohen.

Clear et al. disclose an absorbent article 20 having a topsheet 24, a backsheet 26 and an absorbent core 28 attached between the topsheet and backsheet. As shown in Fig. 1, the absorbent core 28 is centered on both the longitudinal centerline 100 and the lateral centerline 102 of the diaper 20. The absorbent core 28 thus extends an equal distance into both the front half and the back half of the diaper. Clear et al. therefore fail to show or otherwise even suggest that the absorbent core 28 extends farther from the lateral centerline into the front half of the diaper than into the back half of the diaper as recited in new claim 103. For these reasons, new claim 103 is submitted to be unanticipated and patentable over Clear et al.

Hasse et al. disclose a disposable garment 20 having a front portion 56, a rear portion 58 and a crotch portion 57. The crotch portion 57 is divided by the lateral centerline of the diaper, illustrated in Fig. 1 but not numbered. The diaper has a topsheet 24, a backsheet 26, and an absorbent core 28. As shown in Fig. 2, the absorbent core 28 is centered on the longitudinal centerline of the garment and is offset from the lateral centerline of the garment so that the absorbent core 28 extends from the lateral centerline farther into the back half of the diaper than the front half of the diaper. Hasse et al. therefore fail to show or otherwise even suggest that the absorbent core 28 extends farther from the lateral centerline into the front half of the diaper than into the back half of the diaper as recited in new claim 103. For these reasons, new claim 103 is unanticipated and patentable over Hasse et al.

The other references of record also fail to show or suggest all of the features of new claim 103.

In view of the above, applicant submits new claim 103 to be unanticipated by and patentable over the references of record.

Claims 70-82, 96-98 and new claim 104 now depend directly or indirectly from new claim 103 and are submitted to be patentable over the references of record for the same reasons as claim 103.

VI. Claims 78 and 79

Claim 78 depends indirectly from new claim 103 and further recites that the liner is capable of lateral elongation of about 20 percent when the article is subjected to a laterally directed tensile force of about 100 gmf per inch of width of the liner. Claim 79 depends indirectly from new claim 103 and is similar to claim 78 but recites a lateral elongation of about 25 percent.

Clear et al. disclose an absorbent article 20 having a topsheet 24 and backsheet 26 that form a fit panel 38 made from various materials having elastically extensible properties. However, Clear et al. do not show or suggest that that the topsheet of the article 20 has the specific properties recited in claims 78 and 79. Rather, Clear et al. are silent as to the amount of lateral elongation of the topsheet that would result from subjecting the article to the laterally directed tensile force as recited in claims 78 and 79.

Hasse et al. disclose an absorbent article 20 with a topsheet 24 comprising an inner layer 46 and a backsheet 26 comprising an outer layer 48 having elasticized waist band portions 34 and elasticized ear flaps 30. However, Hasse et al. does not show or suggest that the inner layer 46 of the article has the specific properties recited in claims 78 and 79. Rather

Hasse et al. is silent as to the amount of lateral elongation of the inner layer that would result from subjecting the article to the laterally directed tensile force as recited in claims 78 and 79.

Paragraph 12 of the Office action asserts the position that Clear et al. disclose a liner capable of lateral elongation and relies on MPEP 2112.01 to assert that the elements of claims 78 and 79 would be inherent in the article of Clear et al. Paragraph 13 asserts a similar position with regards to the disclosure of Hasse et al. Applicant respectfully disagrees. In relying upon inherency, the Office must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent feature necessarily flows from the teachings of the applied prior art." MPEP 2112 citing *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient for inherency. See MPEP 2112, citing *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993).

No such showing has been made by the Office as to the basis in fact and/or technical reasoning that shows the article of Clear et al., or the article of Hasse et al., has the same lateral elongation properties as recited in claims 78 and 79 when subjected to a laterally directed tensile force of 100 gmf per inch of width of the liner. Rather, Clear et al. teach that the topsheet 24 and backsheet 26 are both subjected to mechanical stretching prior to assembly in the diaper 20 to form the elasticized fit panels 38 and waist feature 34. Similarly, Hasse et al. teach that the inner layer 46 and outer layer 48 are both subjected to mechanical stretching to form the elasticized ear flaps. The mechanical stretching of the inner and outer layers of the articles taught by Clear et al. and Hasse et al. is intended to be prior to the assembly of the absorbent article to

facilitate forming the elasticized portions of the respective articles. In view of the teachings of both Clear et al. and Hasse et al. with regards to "pre-stretching" the inner and outer layers prior to assembly of the absorbent article, applicant submits that the properties of the absorbent article liner recited in claims 78 and 79 are not automatic from the teachings of both these references.

For these additional reasons, claims 78 and 79 are further unanticipated by and patentable over the references of record.

VII. Claims 80-81

Claim 80 depends indirectly from new claim 103 and further recites that the liner is capable of substantially permanent elongation laterally of the article whereby the width of the liner is increased at least about 10 percent when the article is subjected to a laterally directed tensile force of about 100 gmf per inch of width of the liner. Claim 81 depends indirectly from new claim 103 and is similar to claim 80 but recites that the width of the article is increased at least about 20 percent when subjected to the same force as claim 80.

Clear et al. and Hasse et al. disclose articles that have a topsheet (or inner layer) capable of at least some amount of permanent elongation. As set forth above, the topsheet (or inner layer) of the article in Clear et al. and Hasse et al. are both subjected to a mechanical stretching prior to assembly of the respective absorbent article. However, Clear et al. and Hasse et al. do not show or suggest that the topsheet of the article has the specific properties recited in claims 80 and 81. Rather, both Clear et al. and Hasse et al. are silent as to the amount the width (if any) that the liner is increased upon substantially permanent lateral elongation when the article is subjected to laterally directed tensile force.

Applicant respectfully disagrees with the inherency rejection of these claims stated in paragraphs 12 and 13 of the Office action. As stated above, the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient for inherency. See MPEP 2112, citing *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993).

No such showing has been made by the Office as to the basis in fact and/or technical reasoning to show that the article of Clear et al., or the article of Hasse et al., has the same substantially permanent lateral elongation and corresponding increase in width under the conditions recited in claims 80 and 81. Rather, applicant submits that the mechanical "pre-stretching" of the topsheet or inner layer disclosed by Clear et al. and Hasse et al. tends to suggest that the recited permanent elongation would not be automatic from the teachings of these references.

For these additional reasons, claims 80 and 81 are further unanticipated by and patentable over the references of record.

VIII. New Claim 105

New claim 105 is directed to a disposable absorbent garment having longitudinal front and back halves defined by the lateral centerline of the article. The article has a front end and a back end and an absorbent core disposed between a liner and an outer cover. More specifically, the disposable absorbent comprises, *inter alia*:

> a liner adapted for contiguous relationship with a wearer's body;
>
> an outer cover in generally opposed relationship with the liner, at least one of said liner and said outer cover being stretchable in at least one direction, the article

having a surface area defined at least in part by at least one of said liner and said outer cover; and

an absorbent core disposed between the liner and the outer cover and having a front edge, a back edge, and a surface area which is less than about 50% of the surface area of the article, the front edge of the absorbent core being in a closer proximity to the front end of the article than the back edge of the absorbent core is to the back end of the article.

New claim 105 is submitted to be unanticipated by and patentable over the references of record, and in particular Cohen, Clear et al., and Hasse et al., in that whether considered alone or in combination the references fail to show or suggest a disposable absorbent article having an absorbent core with a surface area less than about 50% of the surface area of the article and a front edge that is in closer proximity to the front end of the article than the back edge of the absorbent core is to the back end of the article.

Cohen discloses a diaper 1 having an absorbent core 4 positioned between a cover sheet 2 and fluid impervious backing layer (not shown). However, Cohen is completely silent as to the position of the core relative to the front end and back end of the diaper. If anything, it appears from the drawings that the back edge of the absorbent core 4 (i.e., the edge closest the diaper fasteners) is closer to the back end of the diaper than the front edge of the absorbent core is to the front end of the diaper. Consequently, Cohen fails to show or otherwise even suggest that the absorbent core 4 may be otherwise positioned such that the front edge of the core is in closer proximity to the front end of the article than the back edge of the absorbent

core is to the back end of the article. For these reasons, new claim 105 is submitted to be unanticipated and patentable over Cohen.

Clear et al. disclose an absorbent article 20 having a topsheet 24, a backsheet 26, and an absorbent core 28 positioned between the topsheet and backsheet. As shown in Fig. 1, the absorbent core 28 is centered on both the longitudinal centerline 100 and the lateral centerline 102 of the diaper 20. The absorbent core 28 has front and back waist edges 60 that are positioned an equal distance from the corresponding front and back end edges 52 of the diaper 20. Clear et al. therefore fail to show or otherwise even suggest that the front waist edge 60 of the absorbent core 28 is in closer proximity to the front end edge 52 of the article than the back waist edge of the absorbent core is to the back end edge of the article as recited in new claim 105. For these reasons, new claim 105 is submitted to be unanticipated and patentable over Clear et al.

Hasse et al. disclose a disposable garment 20 having an absorbent core 28 positioned between a topsheet 24 and a backsheet 26. As shown in Fig. 2, the absorbent core 28 is centered on the longitudinal centerline of the garment and is offset from the lateral centerline of the garment. The absorbent core 28 has front and rear end edges 83 (the rear end edge is mislabeled 23 in Fig. 2) that are positioned an equal distance from the corresponding end edges 64 of the article 20. Hasse et al. therefore fail to show or otherwise even suggest that the front end edge 83 of the absorbent core 28 is in a closer proximity to the front end edge 64 of the article than the back waist edge of the absorbent core is to the back end edge of the article as recited in new claim 105. For these

reasons, new claim 105 is submitted to be unanticipated and patentable over Hasse et al.

The other references of record also fail to show or suggest all of the features of new claim 105.

In view of the above, applicant submits new claim 105 to be unanticipated by and patentable over the references of record.

Claims 83-94, 100-102, and new claim 106 now depend directly or indirectly from new claim 105 and are submitted to be patentable over the references of record for the same reasons as claim 105.

IX. Claims 84-87

Claim 84 depends indirectly from new claim 105 and further recites that the outer cover is capable of lateral elongation of about 10 percent when the article is subjected to a laterally a laterally directed tensile force of about 100 gmf per inch of width of the liner. Claim 85 depends indirectly from new claim 105 and is similar to claim 84 but recites a lateral elongation of about 20 percent. Claim 86 depends indirectly from new claim 105 and is similar to claim 84 but recites a lateral elongation of about 30 percent. Claim 87 depends indirectly from new claim 105 and is similar to claim 84 but recites a lateral elongation of about 40 percent.

Clear et al. and Hasse et al. disclose absorbent articles that have a backsheet (or outer layer) capable of at least some amount of lateral elongation. As set forth above, the backsheet (or inner layer) of the articles in Clear et al. and Hasse et al. are subjected to a mechanical stretching prior to assembly of the respective absorbent article. Clear et al. and Hasse et al. do not show or suggest an article having an outer cover with the specific properties recited in claims 84-87. Rather, both

Clear et al. and Hasse et al. are silent as to the amount of lateral elongation (if any) that the outer cover is increased when the article is subjected to the recited laterally directed tensile force.

Applicant respectfully disagrees with the inherency rejection of these claims stated in paragraphs 12 and 13 of the Office action. As stated above, the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient for inherency. See MPEP 2112, citing *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993).

No such showing has been made by the Office as to the basis in fact and/or technical reasoning that shows the article of Clear et al., or the article of Hasse et al., has the same lateral elongation properties as recited in claims 84-87. Rather, applicant submits that the mechanical "pre-stretching" of the backsheet or outer layer disclosed by Clear et al. and Hasse et al. tends to suggest that the recited lateral elongation would not be automatic from the teachings of these references.

For these additional reasons, claims 84-87 are further unanticipated by and patentable over the references of record.

X. Claims 88 and 89

Claim 88 depends indirectly from new claim 105 and further recites that the outer cover is capable of substantially permanent elongation laterally of the article whereby the width of the outer cover is increased at least about 17 percent when the article is subjected to a laterally directed tensile force of about 100 gmf per inch of width of the liner. Claim 89 depends indirectly from new claim 105 and is similar to claim 88 but recites that the width of the article is increased at least

about 30 percent when subjected to the same amount of laterally directed tensile force as claim 88.

Clear et al. and Hasse et al. disclose absorbent articles that have a backsheet (or outer layer) capable of at least some amount of permanent elongation. As set forth above, the backsheet (or inner layer) of the articles in Clear et al. and Hasse et al. are subjected to a mechanical stretching prior to assembly of the respective absorbent article. Clear et al. and Hasse et al. do not show or suggest that the backsheet or outer layer of the article has the specific properties recited in claims 88 and 89. Rather, both Clear et al. and Hasse et al. are silent as to the amount (if any) that the width of the outer cover is increased upon substantially permanent lateral elongation when the article is subjected to the recited laterally directed tensile force.

Applicant respectfully disagrees with the inherency rejection of these claims stated in paragraphs 12 and 13 of the Office action. As stated above, the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient for inherency. See MPEP 2112, citing *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993).

No such showing has been made by the Office as to the basis in fact and/or technical reasoning that shows the article of Clear et al., or the article of Hasse et al., has the same substantially permanent elongation properties as recited in claims 88 and 89. Rather, applicant submits that the mechanical "pre-stretching" of the backsheet or outer layer disclosed by Clear et al. and Hasse et al. tends to suggest that the recited substantially permanent elongation would not be automatic from the teachings of these references.

For these additional reasons, claims 88 and 89 are further unanticipated by and patentable over the references of record.

XI. Conclusion

In view of the foregoing, consideration and allowance of claims 70-94, 96-98, and 100-106 as now presented is respectfully requested.

Enclosed is a check in the amount of $420.00 for payment of the two-month extension of time.

Respectfully submitted,

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CERTIFICATE OF MAILING

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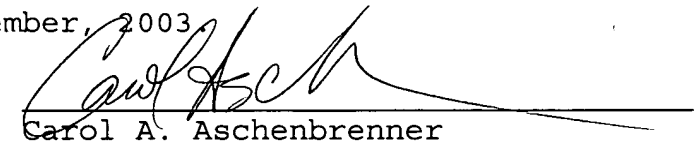

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